

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

GARRY A. BORZYCH,

Plaintiff,

v.

SAMUEL A. CHRISTENSEN,

Defendant.

ORDER

18-cv-914-wmc

Pro se plaintiff Garry A. Borzych alleges that defendant Samuel A. Christensen, Clerk of Court for the Circuit Court of Racine County, violated his constitutional rights by failing to file writs of mandamus and other submissions. (Compl. (dkt. #1).) After filing his complaint, while it was pending screening, Borzych filed a “motion to possibly voluntarily dismiss lawsuit,” explaining that the Seventh Circuit had issued an order finding that he has received three strikes, and therefore is subject to the limitations of 28 U.S.C. § 1915g. (Dkt. #5.) In his motion, however, Borzych questions whether § 1915(g) covers this lawsuit since it “applies to a Clerk of Court” and has “nothing to do with Prison conditions.” (*Id.* at 1.)

Section 1915(g) is not limited to lawsuits concerning prison conditions; instead, the three-strike restriction applies to prisoners who “on 3 or more prior occasions, while incarcerated or detained in any facility, brought an action or appeal in a court of the United States that was dismissed on the grounds that it is frivolous, malicious, or fails to state a claim upon which relief may be granted.” 28 U.S.C. § 1915(g). As such, as a three-striker, while he remains incarcerated, Borzych is restricted from proceeding *in forma pauperis* on *any* claim, even one, as asserted here, that does not concern prison conditions.

Having responded to Borzych's question, the court will grant his conditional motion to dismiss, dismissing his claim against defendant Christensen without prejudice. Accordingly,

IT IS ORDERED that:

- 1) Plaintiff Garry A. Borzych's motion to voluntarily dismiss lawsuit (dkt. #5) is GRANTED. Plaintiff's claim is dismissed without prejudice.
- 2) The clerk's office is directed to close this case.

Entered this 13th day of March, 2019.

BY THE COURT:

/s/

WILLIAM M. CONLEY
District Judge